

Section 7: Project Eligibility



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Eligible Types of Projects

To be eligible for funding under the HMGP, proposed measures must meet the minimum project criteria under 44 CFR 206.434(b). These criteria are designed to ensure that the most appropriate projects are selected for funding.



44 CFR 206.434(b)

Projects may be of any nature that will result in protection of public or private property from natural hazards. Some types of projects that may be eligible include:

- Acquisition of hazardprone property and conversion to open space;
- Retrofitting existing buildings and facilities;
- Elevation of floodprone structures;
- Vegetative management/soil stabilization;
- Infrastructure protection measures;
- Stormwater management;
- Minor structural flood control projects; and
- Post-disaster code enforcement activities.

NEMIS Project Codes

FEMA will process the grant program through the National Emergency Management Information System.

The State should include the appropriate NEMIS project code (see Job Aid 7-1) when submitting applications for potential HMGP projects. Applicants may also propose project types not listed in the NEMIS codes for funding consideration.



Job Aid 7-1

Ineligible Projects

The following types of projects are not eligible under the HMGP:

- Retrofitting places of worship (or other projects that solely benefit religious organizations); and
- Projects in progress.

The paragraphs below discuss these project types in greater detail.

Retrofitting Places of Worship

FEMA does not provide grants for the purpose of retrofitting places of religious worship (or other projects that solely benefit religious organizations), because the retrofit program is indistinguishable from the direct cash grant programs that are uniformly forbidden by the United States Government.

However, an eligible applicant (such as a local government) could include the acquisition of a church in its application where the whole community, not just the church, is the beneficiary.

Section 7: Project Eligibility

Projects in Progress

HMGP funds are not available for projects already in progress. The funding is reserved for measures that arise from the disaster that generates those funds or for not-yet-initiated projects that have been previously identified in a hazard mitigation plan. FEMA and the State cannot meet the requirements of the National Environmental Policy Act if construction has already begun. The Regional Director may grant exceptions for certain projects that can be categorically excluded under NEPA if the work started after the disaster declaration.

Five Minimum Criteria for Project Eligibility

There are five minimum criteria that all projects must meet in order to be considered for funding:

- Conforms with the State Hazard Mitigation Plan;
- Provides beneficial impact upon the designated disaster area;
- Conforms with environmental laws and regulations;
- Solves a problem independently or constitutes a functional portion of a solution; and
- Is cost-effective.

The paragraphs below describe each of these criteria in greater detail.

Conforms With State Hazard Mitigation Plan

Conformance with the State Hazard Mitigation Plan ensures that the proposed measure is in keeping with statewide mitigation strategies. In some cases, the proposed measure may be pre-identified within the existing plan.

If the State's Hazard Mitigation Plan is current, the State is poised for the quickest project approval path. FEMA requires only that these States review and update the existing plans based upon the disaster event.

A State that lacks a current plan may be required to submit a new or expanded post-disaster Hazard Mitigation Plan.



TIP: Refer to Section 2 for more information.

Provides Beneficial Impact Upon Designated Disaster Area

The designated disaster area comprises those counties designated in the disaster declaration as eligible for HMGP funds. Note that the areas designated for HMGP availability is not limited to the areas eligible for Individual or Public Assistance. Upon State request, all counties in the State may be designated as eligible for HMGP funds in the declaration.

**Conforms
With
Environmental
Laws and
Regulations**

In an effort to protect the environment, all projects must undergo a review process to ensure compliance with applicable environmental laws, regulations, and E.O.s, including but not limited to:

- The National Environmental Policy Act, P.L. 91-190 (44 CFR Part 10);
- National Historic Preservation Act;
- Endangered Species Act;
- Executive Order 11988, Floodplain Management (44 CFR Part 9);
- Executive Order 11990, Protection of Wetlands (44 CFR Part 9);
- Executive Order 12699, Seismic Safety; and
- Executive Order 12898, Environmental Justice.



To the extent possible, the applicant and/or State will gather environmental data and conduct the appropriate level of environmental analysis in coordination with FEMA. The State submits the data and analysis to FEMA, which is responsible for ensuring compliance and approving the environmental decision document.

**Solves a
Problem or Is
a Portion of a
Solution**

Approved projects must either solve a site-specific problem or be an element of a larger solution where there is assurance of project completion. A study plan that simply analyzes a problem or identifies a problem without a funded, scheduled, implementation program will not be eligible for HMGP funding.

Examples of projects that solve a problem independently include:

- A project to elevate 6 houses in a neighborhood of 20 houses, would meet this criterion because the damage to those structures would be reduced or prevented.
- A three-phase project to 1) study the feasibility of, 2) design, and 3) construct a series of drainage improvements in a small community.
- A project to delineate local high-hazard areas, tied to a local ordinance restricting development and construction in the identified zones.

Examples of projects that do not solve a problem independently include:

- A project to map a hazard area without any connection to implementing measures to reduce the risk of damage in the mapped area.
- A feasibility study with no provisions for implementing the results.
- The development of a community mitigation plan.

Demonstrates Cost- Effectiveness

Projects funded by the HMGP must be cost-effective. 44 CFR lists a number of minimum criteria that projects must meet in order to be eligible for funding under the HGMP. Among these is that projects must be “cost effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster.”



For most potential projects, the State performs and submits a “benefit-cost analysis” that determines that the benefits to be gained are at least equal to, if not greater than, the cost of the project. FEMA encourages States to use the benefit-cost computer software that FEMA provides to conduct analyses. States may use another methodology if approved by FEMA. FEMA will verify the State’s analysis or, for Managing States, review the summary results.

Section 9 of this handbook provides further detail on benefit-cost analysis.



TIP: See the benefit-cost guidance and training for complete information.

Other Eligibility Factors

In addition to the five minimum eligibility criteria, the following factors are also considered when determining project eligibility:

- Contributes to a long-term solution;
- National Flood Insurance Program participation; and
- Duplication of programs.
- Applicant agreement to property acquisition requirements.

Contributes to a Long-Term Solution

Mitigation measures funded under the HMGP are intended to provide a long-term or permanent solution. Ideally, the measure would be effective for the life of the property being protected.

Erecting an emergency berm on a beach to prevent wave damage to structures is a short-term solution, as opposed to a long-term solution, such as elevation or relocation of the structures.

NFIP Participation

HMGP funds for construction or land acquisition cannot be awarded in certain communities which do not participate in the National Flood Insurance Program (NFIP). Federal grants cannot be given for acquisition or construction purposes if the site is located in a designated Special Flood Hazard Area which has been identified by the Director for at least 1 year and the community is not participating in the NFIP. This includes communities suspended from participation.

If a community with mapped Special Flood Hazard Areas qualifies for and enters the program after the disaster declaration, the State may consider their grant application. FEMA recommends that States give priority to those communities that were participating and in good standing in the NFIP prior to the disaster and are complying with program requirements during reconstruction.

Non-participating communities may submit projects to the HMGP only if the projects are located in unmapped areas or areas outside of the Special Flood Hazard Area.

**NFIP
Participation
(Continued)**
**The project
must be
located in a
participating
community.**

In some cases, the applicant may be in compliance with this criterion even if the applicant does not participate in the NFIP. An example follows:

A non-participating county is interested in relocating a school building presently in a Special Flood Hazard Area. The city (and not the county) has floodplain management authority over the land on which the school is located. The county owns the land and would retain its title. It would dedicate the land to open-space use after relocation of the school building. Although the county is not a participating community, it is the city, which is a participating community, that has jurisdiction over the land. The project is eligible because the jurisdiction with floodplain management over the project site is participating in the NFIP.

If a project is sited within a mapped special flood hazard area of a community that does not participate in the NFIP, the proposed project is not eligible regardless of who the applicant is. An example follows:

A non-profit organization proposes a project sited within a Special Flood Hazard Area of a community that does not participate in the NFIP. Even though the applicant is an entity separate from the non-participating community, the non-profit organization does not possess land use authority. Their proposed project would not be eligible because the applicable community is not participating.

**Duplication of
Programs**

The HMGP provides an opportunity to fund measures that cannot be funded under other authorities. HMGP funds can be packaged with other funds, but are not intended to be used as a substitute for other available program authorities. Other programs and authorities should be examined before application to this program is made. Available program authorities include other FEMA programs, such as the Public Assistance Program, and programs under other Federal agencies, such as the U.S. Army Corps of Engineers and the Natural Resources Conservation Service.

However, project applications that have been denied funding by other Federal programs may be submitted for consideration by the HMGP.

**Applicant
Agreement to
Property
Acquisition
Requirements**

Applicant communities will certify in their application for property acquisition projects that they understand the restrictions for future use of the acquired land. Also, they will consult with the U.S. Army Corps of Engineers (USACE) to ensure no flood damage reduction levees (including berms, floodwalls, or dikes) are under consideration for the area.

The construction of flood damage reduction levees on these lands is incompatible with open space uses and, therefore, will not be allowed. This restriction generally does not apply to structures for ecosystem preservation, restoration, or enhancement.

Local governments will consult with USACE, prior to submittal of the HMGP project application, to address and consider the potential future use of the proposed acquisition project area for the construction of a USACE flood damage reduction levee. If the local government dismisses consideration of a future flood damage reduction levee in that area, the local government may submit to FEMA, through the State, an HMGP application for an open space acquisition project. This application must include the assurances discussed below.

Applicant Agreement to Property Acquisition Requirements (Continued)

If this initial level of consultation indicates that the local government wishes to consider a flood damage reduction levee in the area, the local government must then undertake an expanded consultation process with the State, FEMA, and USACE. The consultation will involve the identification and full consideration of future potential land use conflicts to enable the local government to make an informed decision regarding how it should proceed. There may be situations where the local government may be able to pursue both the open space acquisition and flood damage reduction levee projects without any land use conflicts (i.e., the levee will not cross acquired land). If, however, the local government determines that such conflicts cannot be resolved and chooses to pursue the USACE flood damage reduction levee, the local government must notify FEMA, through the State that it will not submit an HMGP application for open space acquisition.

If the local government decides to pursue an acquisition project following the consultation process, it will include in its application formal assurances, a resolution or a comparable document, adopted by the governing body of the local government that indicate:

1. The local government understands that land acquired for open space purposes under the HMGP will be restricted in perpetuity to open space uses and will be unavailable for construction of flood damage reduction levees; and
2. In consultation with USACE, the local government has addressed and considered the potential future use of these lands for the construction of flood damage reduction levees, and has chosen to proceed with acquisition of permanent open space.

The State and FEMA will not entertain an HMGP application for an open space acquisition project unless the local government provides these formal assurances with its application.



TIP: See Section 11 for details on property acquisition project implementation requirements and allowable open space uses.

The 5% Initiative

Some hazard mitigation measures are difficult to evaluate against traditional program cost-effectiveness criteria. Up to 5 percent of the total HMGP funds may be set aside by the State to pay for measures such as these.

To be eligible for the 5% Initiative, measures must:

- Be identified in the State Hazard Mitigation Plan as a measure that would reduce or prevent damage to property or prevent loss of life or injury;
- Be submitted for review with a narrative rationale that identifies the mitigation benefits and indicates that there is a reasonable expectation that future damage or loss of life or injury will be reduced or prevented; and
- Comply with any other applicable HMGP eligibility criteria, and Federal, State, and local laws and ordinances.

The 5% Initiative (Continued)



TIP: See page 9-2 for the contents of the narrative cost-effectiveness review.

A Proposal's Second Chance

The 5% Initiative, like all HMGP funds, should not be used as a substitute for other Federal programs. Projects that fall under the responsibilities of other Federal agencies are not eligible.

The State may also submit project applications under the 5% Initiative that have previously been denied by the HMGP due to difficulty in measuring their cost-effectiveness. This avenue is preferable to the State submitting an appeal.

Examples of 5% Initiative Projects

Types of projects that could be funded under the 5% Initiative include:

- The use, evaluation, and application of new, unproven mitigation techniques, technologies, methods, procedures, or products that are developmental or research based;
- Equipment and systems for the purpose of warning residents and officials of impending hazard events;
- Hazard identification or mapping and related equipment that are tied to the implementation of mitigation measures;
- Geographical Information System software, hardware, and data acquisition whose primary aim is mitigation;
- Public awareness or education campaigns about mitigation; and
- Other activities, clearly falling under the goal of mitigation, for which benefits are unproven or not clearly measurable and which the State has listed as a priority in its Hazard Mitigation Plan.

Eligibility of Phased Projects

It is sometimes beyond the applicant's technical and financial resources to provide the complete technical information required for a full eligibility or environmental review of a complex project. The State and Region may provide technical assistance to the applicant to develop this complete body of technical data by approving an application to complete a Phase I design, engineering, environmental, or feasibility study.

The Phase I study provides FEMA with a technical body of information mutually concurred on by the applicant, the State, and FEMA to determine project eligibility. If the results of the Phase I review indicate that the project meets benefit-cost, floodplain management, and environmental review requirements, the project would then be eligible for funding for construction under a Phase II approval. Phase I study funding is part of the project's total estimated cost, and is subject to the 75/25 cost-share.

The following provides guidelines and outlines the process for selecting projects for Phase I/Phase II project approval.

Pre-Screening Process

The project must meet the following pre-screening criteria for a conditional Phase I approval in the following sequence:

1. State Mitigation Plan - The proposed project must be in conformance with the State's Mitigation Plan.
2. Justification for Selection of the Proposed Project - 44 CFR requires that the applicant provide justification for the selection of the proposed solution after consideration of a range of options.
3. Potential Cost-Effectiveness - The project demonstrates potential cost-effectiveness based on a preliminary assessment of anticipated project benefits and cost. This preliminary assessment may include the use of FEMA's limited data module. It is imperative that the applicant is aware that this preliminary assessment is solely for the purpose of the Phase I pre-screening process and is not the final cost-effectiveness determination.
4. Environmental Review - Initial environmental review to identify major NEPA compliance issues. The Phase I study is categorically excluded from NEPA review.
5. Hydrologic and Hydraulic or Other Relevant Technical Data - The applicant provides available hydrologic and hydraulic data based on existing models.



Phase I Conditional Approval

The State and Region may approve projects meeting the above pre-screening requirements for technical assistance under a Phase I conditional approval. FEMA and the State will coordinate closely to ensure mutual concurrence on all data and technical information as the Phase I technical review process proceeds. The sequence for the process is as follows:

1. Hydrologic and Hydraulic or Other Relevant Technical Data – If appropriate, the State and FEMA will review the hydrologic and hydraulic or other technical data provided by the applicant.
2. Revised Engineering Design - Based upon the technical data, the applicant develops a preliminary engineering design and layout and cost estimates with ad hoc technical assistance from the State and FEMA. The applicant's design and costing must meet State and FEMA approval before proceeding with the benefit-cost analysis.
3. Executive Order 11988 – If applicable, based upon the technical data and revised engineering design, the project must demonstrate compliance with floodplain management requirements under this Executive Order (E.O.). If a flood map amendment or revision is necessary, the State and FEMA will provide the applicant with technical assistance to meet this requirement.

**Phase I
Conditional
Approval**
(Continued)

4. Refinement of the Cost-Effectiveness Determination - Based upon the revised design and cost estimates, the State and FEMA will refine the preliminary determination of cost-effectiveness conducted in the Phase I pre-screening process. This will result in a final benefit-cost ratio to evaluate the project's cost-effectiveness.
5. Environmental Review – The State and FEMA will conduct an environmental review of the revised project design to ensure compliance with NEPA. This includes an evaluation of other resources such as wetlands, endangered species, and historic structures. The project will meet environmental review requirements before Phase II approval.

**Phase II
Approval—
Construction
Process**

If the project is determined to be eligible, technically feasible, cost-effective, and compliant with E.O. 11988 and 11990 and NEPA/Historic Preservation requirements under the Phase I technical review, the project may then be approved for construction under Phase II.



Job Aid 7-1

NEMIS Project Codes

Note: This also includes projects eligible only under the 5% Initiative.

Stormwater Management - Diversions

Public Awareness and Education (brochures, workshops, videos, etc.)

Professional Education (Building Inspectors, Architects, Engineers, Contractors, etc.)

Mitigation Plans - Storm Water/Drainage Management Plans

Mitigation Plans - Land Use Planning Resulting in Revised Land Development Regulations

Mitigation Plans - Vegetation Management

Feasibility, Engineering and Design Studies

Developing, Implementing and Enforcing Codes, Standards, Ordinances and Regulations

Applied Research and Development in the Building Sciences

Retrofitting Private Structures -- Wildfire

Retrofitting Public Structures -- Wildfire

Non-Structural Retrofitting Private Structures -- Seismic

Non-Structural Retrofitting Public Structures -- Seismic

Structural Retrofitting Private Structures -- Seismic

Structural Retrofitting Public Structures -- Seismic

Retrofitting Private Structures -- Wind

Retrofitting Public Structures -- Wind

Vegetation Management - Natural Dune Restoration

Vegetation Management - Wildfire

Vegetation Management - Wind

Vegetation Management - Non Coastal Shoreline Stabilization

Vegetation Management - Landslide Stabilization

Shoreline Stabilization (riprap, etc.)

Landslide Stabilization

Wetland Restoration/Creation

Utility Protective Measures (electric, gas, etc.)

